

Washington

Lawmakers consider lessening crack penalties

Federal guidelines require heavier sentences than for powder cocaine

By Donna Leinwand
USA TODAY

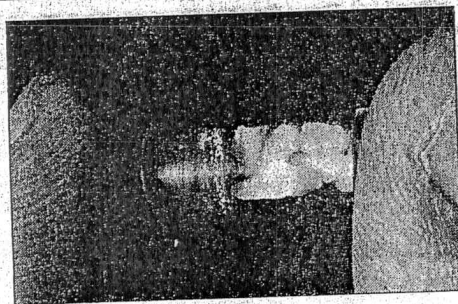
Momentum is building in Congress to ease crack cocaine sentencing guidelines, which the American Civil Liberties Union and other critics say have filled prisons with low-level drug dealers and addicts whose punishments were much worse than their crimes.

Federal prison sentences for possessing or selling crack have far exceeded those for powder cocaine for two decades. House Crime Subcommittee chairman Robert Scott, D-Va., a longtime critic of such sentencing policies, plans to hold hearings on crack sentences this year. In the Senate, Republican Jeff Sessions of Alabama is drawing bipartisan support for his proposal to ease crack sentences.

"I believe that as a matter of law enforcement and good public policy that crack cocaine sentences are too heavy and can't be justified," Sessions says. "People don't want us to be soft on crime, but I think we ought to make the law more rational."

The mandatory federal sentencing guidelines passed by Congress in 1986 require a judge to impose the same sentence for possession of 5 grams of crack as for 500 grams of powder cocaine: five years in prison.

Congress passed the sentencing



1986 AP photo

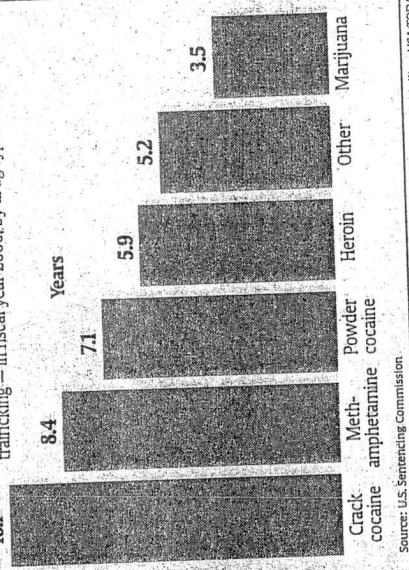
Different rules for rocks: Possessing 5 grams of smokable coke could get a five-year sentence.

laws just after the fatal crack overdose of University of Maryland basketball star Len Bias on June 19, 1986, and as crack was emerging in urban areas, says Alfred Blumstein, a professor at Carnegie Mellon University in Pittsburgh who researches crime. Crack cocaine was associated with violent, open-air drug markets, he says.

"There was a lot of public concern about violence," Blumstein says.

Harsh crack sentences

Average length of imprisonment (in years) for those convicted of federal drug offenses — primarily drug trafficking — in fiscal year 2006, by drug type:



Source: U.S. Sentencing Commission

By Marcy E. Mullins, USA TODAY

Jesselyn McCurdy with the ACLU says much of the violence associated with crack stemmed from territorial disputes between dealers, not from those using the drug. She says the stricter sentences for crack, primarily African-American addicts rather than the major drug traffickers Congress sought to punish. An ACLU study in October 2006 found that 80% of crack defendants were black.

"People have seen how it plays out in racial disparities," McCurdy says. "The stumbling block on both sides of the aisle has been this issue around: appearing to be soft on

crime. But this is about equalizing an injustice."

Sessions' bill would lessen the sentencing disparity by increasing punishments for powder cocaine and decreasing them for crack. Crimes involving crack would still draw stiffer sentences, but the difference would not be as dramatic.

The bill has drawn support from Democratic Sen. Ken Salazar, a former state attorney general from Colorado, Democratic Sen. Mark Pryor, a former state attorney general from Arkansas, and Republican Sen. John Cornyn, a former Texas Supreme Court justice and attorney general.

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In the House of Representatives, two bills calling for Congress to equalize the sentences for powder cocaine and crack were filed in January.

"We're going to address all the mandatory minimums," said Scott, chairman of the House Judiciary Committee's Subcommittee on Crime, Terrorism and Homeland Security. "The crack cocaine is probably the most egregious because of its draconian number of years for relatively small amounts."

Opposition to weaker sentences has come from police, prosecutors and law enforcement agencies such as the Justice Department and the Drug Enforcement Administration. "We believe the current federal sentencing policy and guidelines for crack cocaine offenses are reasonable," Justice spokesman Dean Boyd says.

Higher penalties for crack offenses reflect its greater harm, he says, adding that crack traffickers are more likely to use weapons and have more significant criminal histories than powder cocaine dealers. "Congress thought by having very harsh sentences, it would deter the spread of crack into the in-

ner cities and around the country," Sessions says. "The truth is, it didn't stop it. It spread very rapidly. Now we need to ask ourselves, what is the right sentence for this bad drug? I think it's time to adjust. I think it's past time to do this."

Scientists say there is no pharmacological justification for having different sentencing rules for crack and powder cocaine.

The powder is cocaine hydrochloride salt, which can be snorted into the nose or dissolved in water and injected. Crack is cocaine mixed with water and ammonia or baking soda then heated to remove the hydrochloride. The resulting pure cocaine rock can be smoked.

"Once the cocaine is in your bloodstream, there's absolutely no difference between powder cocaine and crack cocaine," says Bruce Goldberger, director of toxicology at the University of Florida College of Medicine.

The quicker the drug enters the bloodstream, the more intense its effects, he said. Two of the quickest routes are smoking, which is done with crack, and injecting, which is done by dissolving the powder and shooting it into the bloodstream.